

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT NEW YORK**

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Chapter 7

In Re:

Case No. 814-72941-845

Gershon Barkany

Debtor

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Marc A. Pergament, Interim Chapter 7  
Trustee of the Estate of Gershon Barkany,

Adv. Proc No.  
815-08244-845

Plaintiff

against

**ANSWER WITH  
CROSS CLAIMS**

Alan Gerson, Bruce Montague & Partners,  
Charber Realty, Alfred Schonberger,  
Marina District Development Co. LLC,  
Barkany Asset Recovery & Manangement  
LLC, Daniel Hirschler, Joseph Rosenberg  
and Goldberg & Rimjberg, PLLC,

Defendants.

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Defendant, Gerson ("Gerson"), by and through his attorneys, Novak  
Juhase & Stern L.L.P., as and for its Answer to the Complaint, dated August 18,  
2015 (the "Complaint"):

**PARTIES**

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "1".
2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "2".

3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "3".

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "4".

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "5".

### **THE PARTIES**

6. Admits the allegations contained in paragraph "6".

7. Admits the allegations contained in paragraph "7".

8. Admits the allegations contained in paragraph "8".

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "9".

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "10".

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "11".

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "12".

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "13".

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "14".

15. Admits the allegations contained in paragraph "15".

## **BACKGROUND**

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "16", except upon information and belief admits that Barkany pled guilty to an Information and refers to the Information for its allegations.

17. Admits allegations contained in paragraph "17".

18. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "18".

19. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "19".

20. Admits the allegations contained in paragraph "20".

21. Admits the allegations contained in paragraph "21".

22. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "22".

23. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "23".

24. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "24", except upon information and belief admits that defendant Gerson has acted as counsel for Barkany in the past.

25. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "25", except admits an introduction was made

26. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "26" except admits \$750,000 from an

unknown source was transferred to an IOLA account in the control of Gerson (the "Gerson IOLA Account").

27. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "27".

28. Denies the allegations in paragraph "28", except admits that the Hilman Partnership commenced the action in the Supreme Court, Kings County, entitled Ludvik and Eva Hilman Family Partnership, L.P. v. Gerson, et al., Index No. 502113/2013 ("Hilman Action").

29. Denies the allegations in paragraph "29".

30. Denies knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph "30".

31. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "31".

32. Denies the allegations in paragraph "32", except admits that Canadian Northern Realty LLC commenced the action in the Supreme Court, Kings County, entitled that Canadian Northern Realty LLC v. Barkany, et al., Index No. 501806/2013.

33. Denies knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph "33".

34. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "34", except, upon information and belief, admits that Barkany caused \$750,000 to be transferred to the Gerson IOLA Account.

35. Denies the allegations contained in paragraph "35".

36. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "36".

37. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "37".

38. Denies knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph "38".

39. Denies knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph "39".

40. Denies knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph "40".

41. Denies knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph "41".

42. Denies knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph "42".

43. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "43".

44. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "44".

45. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "45".

46. Denies the allegations contained in paragraph "46".

47. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "47".

48. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "48".

49. Denies the truth of the allegations contained in paragraph "49".

50. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "50".

51. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "51".

52. Denies the truth of the allegations contained in paragraph "52".

53. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "53".

54. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "54".

55. Denies the truth of the allegations contained in paragraph "55".

56. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "56".

57. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "57".

58. Denies the truth of the allegations contained in paragraph "58".

59. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "59".

60. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "60".

61. Denies the truth of the allegations contained in paragraph "61".

62. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "62".

63. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "63".

### **FIRST CAUSE OF ACTION**

64. In response to paragraph "64" repeats and realleges paragraphs "1" through "63" hereof as if fully alleged herein.

65. Denies the truth of the allegations contained in paragraph "65", except upon information and belief admits that defendant Gerson through the Gerson IOLA Account came into possession of \$750,000.

66. Denies the allegations contained in paragraph "66".

67. Denies the allegations contained in paragraph "67".

68. Denies the allegations contained in paragraph "68".

### **SECOND CAUSE OF ACTION**

69. In response to paragraph "69" repeats and realleges paragraphs "1" through "69" hereof as if fully alleged herein.

70. Denies the truth of the allegations contained in paragraph "70", except admits that Gerson through the Gerson IOLA Account came into possession of \$750,000.

71. Denies the allegations contained in paragraph "71".
72. Denies the allegations contained in paragraph "72".
73. Denies the allegations contained in paragraph "73".
74. Denies the allegations contained in paragraph "74".

### **THIRD CAUSE OF ACTION**

75. In response to paragraph "75" repeats and realleges paragraphs "1" through "74" hereof as if fully alleged herein.
76. Denies the truth of the allegations contained in paragraph "76", except admits that Mr. Gerson through the Gerson IOLA Account came into possession of \$750,000.

77. Denies the allegations contained in paragraph "77".
78. Denies the allegations contained in paragraph "78".
79. Denies the allegations contained in paragraph "79".

### **FOURTH CAUSE OF ACTION**

80. In response to paragraph "80" repeats and realleges paragraphs "I" through "79" hereof as if fully alleged herein.
81. Denies the truth of the allegations contained in paragraph "81", except admits that Gerson through the Gerson IOLA Account came into possession of \$750,000.
82. Denies the truth of the allegations contained in paragraph "82".
83. Denies the truth of the allegations contained in paragraph "83".
84. Denies the truth of the allegations contained in paragraph "84".
85. Denies the truth of the allegations contained in paragraph "85".
86. Denies the truth of the allegations contained in paragraph "86".

**FIFTH CAUSE OF ACTION**

87. In response to paragraph "87" repeats and realleges paragraphs "1" through "86" hereof as if fully alleged herein
88. Denies the allegations contained in paragraph "88".
89. Denies the allegations contained in paragraph "89".
90. Denies the allegations contained in paragraph "90".
91. Denies the allegations contained in paragraph "91".

**SIXTH CAUSE OF ACTION**

92. In response to paragraph "92" repeats and realleges paragraphs "1" through "91" hereof as if fully alleged herein.
93. Denies the allegations contained in paragraph "93".
94. Denies the allegations contained in paragraph "94".
95. Denies the allegations contained in paragraph "95".
96. Denies the allegations contained in paragraph "96".
97. Denies the allegations contained in paragraph "97".

**SEVENTH CAUSE OF ACTION**

98. In response to paragraph "98" repeats and realleges paragraphs "1" through "97" and "39" through "42" hereof as if fully alleged herein.
99. Denies the allegations contained in paragraph "99".
100. Denies the allegations contained in paragraph "100".
101. Denies the allegations contained in paragraph "101".
102. Denies the allegations contained in paragraph "102".

**EIGHTH CAUSE OF ACTION**

103. In response to paragraph "103" repeats and realleges paragraphs "1" through "102" hereof as if fully alleged herein.

104. Denies the allegations contained in paragraph "104".

105. Denies the allegations contained in paragraph "105".

106. Denies the allegations contained in paragraph "106".

107. Denies the allegations contained in paragraph "107".

108. Denies the allegations contained in paragraph "108".

109. Denies the allegations contained in paragraph "109".

#### **NINTH CAUSE OF ACTION**

110. In response to paragraph "110" repeats and realleges paragraphs "1" through "109" hereof as if fully alleged herein.

111. Denies the allegations contained in paragraph "111".

112. Denies the allegations contained in paragraph "112".

113. Denies the allegations contained in paragraph "113" and refers all questions of law to the trial court for resolution.

114. Denies the allegations contained in paragraph "114" and refers all questions of law to the trial court for resolution.

#### **TENTH CAUSE OF ACTION**

115. In response to paragraph "115" repeats and realleges paragraphs "1" through "114" hereof as if fully alleged herein.

116. Denies the allegations contained in paragraph "116".

117. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "117".

118. Denies knowledge or information sufficient to form a belief as to the truth of the allegations paragraph in "118" and refers all questions of law to the trial court for resolution.

119. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph in "119" and refers all questions of law to the trial court for resolution.

#### **ELEVENTH CAUSE OF ACTION**

120. In response to paragraph "120" repeats and realleges paragraphs "1" through "119" hereof as if fully alleged herein.

121. Denies the allegations contained in paragraph "121".

122. Denies knowledge or information sufficient to form a belief as to the truth of the allegations paragraph in "122".

123. Denies knowledge or information sufficient to form a belief as to the truth of the allegations paragraph in "123" and refers all questions of law to the trial court for resolution.

124. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "124" and refers all questions of law to the trial court for resolution.

#### **TWELFTH CAUSE OF ACTION**

125. In response to paragraph "125" repeats and realleges paragraphs "1" through "124" hereof as if fully alleged herein.

126. Denies the allegations contained in paragraph "126".

127. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "127".

128. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "128" and refers all questions of law to the trial court for resolution.

129. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "129" and refers all questions of law to the trial court for resolution.

### **THIRTEENTH CAUSE OF ACTION**

130. In response to paragraph "130" repeats and realleges paragraphs "1" through "34" and "43" through "45" hereof as if fully alleged herein.

131. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "131".

132. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "132".

133. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "133" and refers all questions of law to the trial court for resolution.

134. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "134" and refers all questions of law to the trial court for resolution.

135. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "135" and refers all questions of law to the trial court for resolution.

#### **FOURTEENTH CAUSE OF ACTION**

136. In response to paragraph "136" repeats and realleges paragraphs "1" through "135" hereof as if fully alleged herein.

137. Upon information and belief denies the allegations contained in paragraph "137".

138. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "138".

139. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "139" and refers all questions of law to the trial court for resolution.

140. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "140" and refers all questions of law to the trial court for resolution.

141. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "141" and refers all questions of law to the trial court for resolution.

#### **FIFTEENTH CAUSE OF ACTION**

142. In response to paragraph "142" repeats and realleges paragraphs "1" through "141" hereof as if fully alleged herein.

143. Upon information and belief denies the allegations contained in paragraph "143" and refers all questions of law to the trial court for resolution.

144. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "144" and refers all questions of law to the trial court for resolution.

#### **SIXTEENTH CAUSE OF ACTION**

145. In response to paragraph "145" repeats and realleges paragraphs "1" through "144" hereof as if fully alleged herein.

146. Denies the allegations contained in paragraph "146" and refers all questions of law to the trial court for resolution.

147. Denies the allegations contained in paragraph "147" and refers all questions of law to the trial court for resolution.

#### **SEVENTEENTH CAUSE OF ACTION**

148. In response to paragraph "148" repeats and realleges paragraphs "1" through "147" hereof as if fully alleged herein.

149. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "149" and refers all questions of law to the trial court for resolution.

150. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "150".

151. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "151" and refers all questions of law to the trial court for resolution.

152. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "152" and refers all questions of law to the trial court for resolution.

153. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "153" and refers all questions of law to the trial court for resolution.

154. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "154" and refers all questions of law to the trial court for resolution.

#### **EIGHTEENTH CAUSE OF ACTION**

155. In response to paragraph "155" repeats and realleges paragraphs "1" through "34" and "46" through "48" hereof as if fully alleged herein.

156. Denies the allegations contained in paragraph "156".

157. Denies the allegations contained in paragraph "157".

158. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "158" and refers all questions of law to the trial court for resolution.

159. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "159" and refers all questions of law to the trial court for resolution.

## **NINETEENTH CAUSE OF ACTION**

160. In response to paragraph "160" repeats and realleges paragraphs "1" through "159" hereof as if fully alleged herein.

161. Denies the allegations contained in paragraph "161".

162. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "162".

163. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "163" and refers all questions of law to the trial court for resolution.

164. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "164" and refers all questions of law to the trial court for resolution.

## **TWENTIETH CAUSE OF ACTION**

165. In response to paragraph "165" repeats and realleges paragraphs "1" through "164" hereof as if fully alleged herein.

166. Denies the allegations contained in paragraph "166".

167. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "167".

168. Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "168" and refers all questions of law to the trial court for resolution.

169. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "169" and refers all questions of law to the trial court for resolution.

#### **TWENTY-FIRST CAUSE OF ACTION**

170. In response to paragraph "170" repeats and realleges paragraphs "1" through "169" hereof as if fully alleged herein.

171. Denies the allegations contained in paragraph "171".

172. Denies the allegations contained in paragraph "172".

173. Denies the allegations contained in paragraph "173" and refer all questions of law to the trial court for resolution.

174. Denies the allegations contained in paragraph "174" and refers all questions of law to the trial court for resolution.

#### **TWENTY-SECOND CAUSE OF ACTION**

175. In response to paragraph "175" repeats and realleges paragraphs "1" through "174" hereof as if fully alleged herein.

176. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "176".

177. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "177" and refers all questions of law to the trial court for resolution.

178. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "178" and refers all questions of law to the trial court for resolution.

179. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "179" and refers all questions of law to the trial court for resolution.

180. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "180" and refers all questions of law to the trial court for resolution.

### **TWENTY-THIRD CAUSE OF ACTION**

181. In response to paragraph "181" repeats and realleges paragraphs "I" through "180" hereof as if fully alleged herein.

182. Denies the allegations contained in paragraph "182".

183. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "183" and refers all questions of law to the trial court for resolution.

184. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "184" and refers all questions of law to the trial court for resolution.

185. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "185" and refers all questions of law to the trial court for resolution.

186. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "186" and refers all questions of law to the trial court for resolution.

#### **TWENTY-FOURTH CAUSE OF ACTION**

187. In response to paragraph "187" repeats and realleges paragraphs "1" through "34" and "186" hereof as if fully alleged herein.

188. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "188" and refers all questions of law to the trial court for resolution.

189. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "189" and refers all questions of law to the trial court for resolution.

#### **TWENTY-FIFTH CAUSE OF ACTION**

190. In response to paragraph "190" repeats and realleges paragraphs "1" through "189" hereof as if fully alleged herein.

191. Denies the allegations in paragraph "191".

192. Denies the allegations in paragraph "192".

#### **TWENTY-SIXTH CAUSE OF ACTION**

193. In response to paragraph "193" repeats and realleges paragraphs "1" through "192" hereof as if fully alleged herein.

194. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "194" and refers all questions of law to the trial court for resolution.

195. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "195".

196. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "196" and refers all questions of law to the trial court for resolution.

197. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "197" and refers all questions of law to the trial court for resolution.

198. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "198" and refers all questions of law to the trial court for resolution.

199. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "199" and refers all questions of law to the trial court for resolution.

#### **TWENTY-SEVENTH CAUSE OF ACTION**

200. In response to paragraph "200" repeats and realleges paragraphs "1" through 199" hereof as if fully alleged herein.

201. Denies the allegations in paragraph "201".

202. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "202".

203. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "203" and refers all questions of law to the trial court for resolution.

204. Denies knowledge or information sufficient to form a belief as to the truth of the

allegations contained in paragraph "204" and refers all questions of law to the trial court for resolution.

#### **TWENTY-EIGHTH CAUSE OF ACTION**

205. In response to paragraph "205" repeats and realleges paragraphs "1" through "204" hereof as if fully alleged herein.

206. Denies the allegations in paragraph "206".

207. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "207".

208. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "208" and refers all questions of law to the trial court for resolution.

209. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "209" and refers all questions of law to the trial court for resolution.

#### **TWENTY-NINTH CAUSE OF ACTION**

210. In response to paragraph "210" repeats and realleges paragraphs "1" through "209" hereof as if fully alleged herein.

211. Denies the allegations in paragraph "211".

212. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "213".

213. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "213" and refers all questions of law to the trial court for resolution.

214. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "214" and refers all questions of law to the trial court for resolution.

### **THIRTIETH CAUSE OF ACTION**

215. In response to paragraph "215" repeats and realleges paragraphs "1" through "214" hereof as if fully alleged herein.

216. Denies the allegations in paragraph "216".

217. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "217".

218. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "218" and refers all questions of law to the trial court for resolution.

219. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "219" and refers all questions of law to the trial court for resolution.

### **THIRTY-FIRST CAUSE OF ACTION**

220. In response to paragraph "220" repeats and realleges paragraphs "1" through "219" hereof as if fully alleged herein.

221. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "221".

222. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "222" and refers all questions of law to the trial court for resolution.

223. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "223" and refers all questions of law to the trial court for resolution.

224. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "224" and refers all questions of law to the trial court for resolution.

225. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "225" and refers all questions of law to the trial court for resolution.

### **THIRTY-SECOND CAUSE OF ACTION**

226. In response to paragraph "226" repeats and realleges paragraphs "1" through "225" and hereof as if fully alleged herein.

227. Denies the allegations contained in paragraph "227".

228. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "228".

229. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "229" and refers all questions of law to the trial court for resolution.

230. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "230" and refers all questions of law to the trial court for resolution.

231. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "231" and refers all questions of law to the trial court for resolution.

### **THIRTY-THIRD CAUSE OF ACTION**

232. In response to paragraph "232" repeats and realleges paragraphs "1" through "231" hereof as if fully alleged herein.

233. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "233" and refers all questions of law to the trial court for resolution.

234. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "234" and refers all questions of law to the trial court for resolution.

### **THIRTY-FOURTH CAUSE OF ACTION**

235. In response to paragraph "235" repeats and realleges paragraphs "1" through "234" hereof as if fully alleged herein.

236. Denies the allegations contained in paragraph "236".

237. Denies the allegations contained in paragraph "237", and refers all questions of law to the trial court for resolution.

### **THIRTY-FIFTH CAUSE OF ACTION**

238. In response to paragraph "235" repeats and realleges paragraphs "1" through "237" hereof as if fully alleged herein.

239. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "239" and refers all questions of law to the trial court for resolution.

240. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "240".

241. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "241" and refers all questions of law to the trial court for resolution.

242. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "242" and refers all questions of law to the trial court for resolution.

243. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "243" and refers all questions of law to the trial court for resolution.

244. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "244" and refers all questions of law to the trial court for resolution.

#### **THIRTY-SIXTH CAUSE OF ACTION**

245. In response to paragraph "245" repeats and realleges paragraphs "1" through "244" hereof as if fully alleged herein.

246. Upon information and belief denies the allegations contained in paragraph "246".

247. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "247".

248. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "248" and refers all questions of law to the trial court for resolution.

249. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "249" and refers all questions of law to the trial court for resolution.

#### **THIRTY-SEVENTH CAUSE OF ACTION**

250. In response to paragraph "250" repeats and realleges paragraphs "1" through "249" hereof as if fully alleged herein.

251. Denies the allegations contained in paragraph "251".

252. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "252".

253. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "253" and refers all questions of law to the trial court for resolution.

254. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "254" and refers all questions of law to the trial court for resolution.

#### **THIRTY-EIGHTH CAUSE OF ACTION**

255. In response to paragraph "255" repeats and realleges paragraphs "1" through "254" hereof as if fully alleged herein.

256. Denies the allegations contained in paragraph "256".

257. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "257".

258. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "258" and refers all questions of law to the trial court for resolution.

259. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "259" and refers all questions of law to the trial court for resolution.

### **THIRTY-NINTH CAUSE OF ACTION**

260. In response to paragraph "260" repeats and realleges paragraphs "1" through "259" hereof as if fully alleged herein.

261. Denies the allegations contained in paragraph "261".

262. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "262".

263. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "263" and refers all questions of law to the trial court for resolution.

264. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "264" and refers all questions of law to the trial court for resolution.

### **FORTIETH CAUSE OF ACTION**

265. In response to paragraph "265" repeats and realleges paragraphs "1" through "264" hereof as if fully alleged herein.

266. Denies the allegations contained in paragraph "266".

267. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "267" and refers all questions of law to the trial court for resolution.

268. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "268" and refers all questions of law to the trial court for resolution.

269. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "269" and refers all questions of law to the trial court for resolution.

270. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "270" and refers all questions of law to the trial court for resolution.

#### **FORTY-FIRST CAUSE OF ACTION**

271. In response to paragraph "271" repeats and realleges paragraphs "1" through "270" hereof as if fully alleged herein.

272. Denies the allegations in paragraph "272".

273. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "273".

274. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "274" and refers all questions of law to the trial court for resolution.

275. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "275" and refers all questions of law to the trial court for resolution.

276. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "276" and refers all questions of law to the trial court for resolution.

#### **FORTY-SECOND CAUSE OF ACTION**

277. In response to paragraph "277" repeats and realleges paragraphs "1" through "276" hereof as if fully alleged herein.

278. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "278" and refers all questions of law to the trial court for resolution.

279. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "279" and refers all questions of law to the trial court for resolution.

#### **FORTY-THIRD CAUSE OF ACTION**

280. In response to paragraph "280" repeats and realleges paragraphs "1" through "279" hereof as if fully alleged herein.

281. Denies the allegations in paragraph "281".

282. Denies the allegations in paragraph "272" and refers all questions of law to the trial court for resolution.

#### **FORTY-FOURTH CAUSE OF ACTION**

283. In response to paragraph "283" repeats and realleges paragraphs "1" through "282" hereof as if fully alleged herein.

284. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "284" and refers all questions of law to the trial court for resolution.

285. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "285".

286. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "286" and refers all questions of law to the trial court for resolution.

287. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "287" and refers all questions of law to the trial court for resolution.

288. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "288" and refers all questions of law to the trial court for resolution.

289. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "289" and refers all questions of law to the trial court for resolution.

#### **FORTY-FIFTH CAUASE OF ACTION**

290. In response to paragraph "290" repeats and realleges paragraphs "1" through "289" hereof as if fully alleged herein.

291. Denies the allegations in paragraph "291".

292. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "292".

293. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "293" and refers all questions of law to the trial court for resolution.

294. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "294" and refers all questions of law to the trial court for resolution.

#### **FORTY-SIXTH CAUSE OF ACTION**

295. In response to paragraph "295" repeats and realleges paragraphs "1" through "294" hereof as if fully alleged herein.

296. Denies the allegations in paragraph "296".

297. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "297".

298. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "298" and refers all questions of law to the trial court for resolution.

299. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "299" and refers all questions of law to the trial court for resolution.

## **FORTY-SEVENTH CAUSE OF ACTION**

300. In response to paragraph "300" repeats and realleges paragraphs "1" through "299" hereof as if fully alleged herein.

301. Denies the allegations in paragraph "301".

302. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "302".

303. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "303" and refers all questions of law to the trial court for resolution.

304. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "304" and refers all questions of law to the trial court for resolution.

## **FORTY-EIGHT CAUSE OF ACTION**

305. In response to paragraph "305" repeats and realleges paragraphs "1" through "304" hereof as if fully alleged herein.

306. Denies the allegations in paragraph "306".

307. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "307".

308. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "308" and refers all questions of law to the trial court for resolution.

309. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "309" and refers all questions of law to the trial court for resolution.

**FORTY-NINTH CAUSE OF ACTION**

310. In response to paragraph "310" repeats and realleges paragraphs "1" through "309" hereof as if fully alleged herein.

311. Denies the truth of the allegations contained in paragraph "311".

312. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "312" and refers all questions of law to the trial court for resolution.

313. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "313" and refers all questions of law to the trial court for resolution.

314. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "314" and refers all questions of law to the trial court for resolution.

315. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "315" and refers all questions of law to the trial court for resolution.

**FIFTIETH CAUSE OF ACTION**

316. In response to paragraph "316" repeats and realleges paragraphs "1" through "315" hereof as if fully alleged herein.

317. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "317".

318. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "318".

319. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "319" and refers all questions of law to the trial court for resolution.

320. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "320" and refers all questions of law to the trial court for resolution.

321. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "321" and refers all questions of law to the trial court for resolution.

#### **FIFTY-FIRST CAUSE OF ACTION**

322. In response to paragraph "322" repeats and realleges paragraphs "1" through "321" hereof as if fully alleged herein.

323. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "323" and refers all questions of law to the trial court for resolution.

324. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "324" and refers all questions of law to the trial court for resolution.

**FIFTY-SECOND CAUSE OF  
ACTION**

325. In response to paragraph "325" repeats and realleges paragraphs "1" through "324" hereof as if fully alleged herein.

326. Denies the allegations in paragraph "326".

327. Denies the allegations in paragraph "327".

**FIFTY-THIRD CAUSE OF ACTION**

328. In response to paragraph "328" repeats and realleges paragraphs "1" through "327" hereof as if fully alleged herein.

329. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "329" and refers all questions of law to the trial court for resolution.

330. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "330".

331. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "331" and refers all questions of law to the trial court for resolution.

332. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "332" and refers all questions of law to the trial court for resolution.

333. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "333" and refers all questions of law to the trial court for resolution.

334. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "334" and refers all questions of law to the trial court for resolution.

**FIFTY-FOURTH CAUSE OF ACTION**

335. In response to paragraph "335" repeats and realleges paragraphs "1" through "334" hereof as if fully alleged herein.

336. Denies the allegations in paragraph "336".

337. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "337".

338. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "338" and refers all questions of law to the trial court for resolution.

339. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "339" and refers all questions of law to the trial court for resolution.

**FIFTY-FIFTH CAUSE OF ACTION**

340. In response to paragraph "340" repeats and realleges paragraphs "1" through "339" hereof as if fully alleged herein.

341. Denies the allegations contained in paragraph "341".

342. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "342".

343. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "343" and refers all questions of law to the trial court for resolution.

344. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "344" and refers all questions of law to the trial court for resolution.

#### **FIFTY-SIXTH CAUSE OF ACTION**

345. In response to paragraph "345" repeats and realleges paragraphs "1" through "344" hereof as if fully alleged herein.

346. Denies the allegations contained in paragraph "346".

347. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "347".

348. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "348" and refers all questions of law to the trial court for resolution.

349. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "349" and refers all questions of law to the trial court for resolution.

#### **FIFTY-SEVENTH CAUSE OF ACTION**

350. In response to paragraph "350" repeats and realleges paragraphs "1" through "349" hereof as if fully alleged herein.

351. Denies the allegations contained in paragraph "351".

352. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "352".

353. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "353" and refers all questions of law to the trial court for resolution.

354. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "354" and refers all questions of law to the trial court for resolution.

#### FIFTY-EIGHTH CAUSE OF ACTION

355. In response to paragraph "355" repeats and realleges paragraphs "1" through "354" hereof as if fully alleged herein.

356. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "356".

357. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "357" and refers all questions of law to the trial court for resolution.

358. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "358" and refers all questions of law to the trial court for resolution.

359. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "359" and refers all questions of law to the trial court for resolution.

360. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "360" and refers all questions of law to the trial court for resolution.

#### **FIFTY-NINTH CAUSE OF ACTION**

361. In response to paragraph "361" repeats and realleges paragraphs "1" through "360" hereof as if fully alleged herein.

362. Denies the truth of the allegations contained in paragraph "362".

363. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "363".

364. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "364" and refers all questions of law to the trial court for resolution.

365. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "365" and refers all questions of law to the trial court for resolution.

366. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "366" and refers all questions of law to the trial court for resolution.

#### **SIXTIETH CAUSE OF ACTION**

367. In response to paragraph "367" repeats and realleges paragraphs "1" through "366" hereof as if fully alleged herein.

368. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "368" and refers all questions of law to the trial court for resolution.

369. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "369" and refers all questions of law to the trial court for resolution.

#### **SIXTY-FIRST CAUSE OF ACTION**

370. In response to paragraph "370" repeats and realleges paragraphs "1" through "369" hereof as if fully alleged herein.

371. Denies the truth of the allegations contained in paragraph "371" and refers all questions of law to the trial court for resolution.

372. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "372" and refers all questions of law to the trial court for resolution.

#### **SIXTY-SECOND CAUSE OF ACTION**

373. In response to paragraph "373" repeats and realleges paragraphs "1" through "373" hereof as if fully alleged herein.

374. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "374" and refers all questions of law to the trial court for resolution.

375. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "375".

376. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "376" and refers all questions of law to the trial court for resolution.

377. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "377" and refers all questions of law to the trial court for resolution.

378. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "378" and refers all questions of law to the trial court for resolution.

379. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "379" and refers all questions of law to the trial court for resolution.

### **SIXTY-THIRD CAUSE OF ACTION**

380. In response to paragraph "380" repeats and realleges paragraphs "1" through "379" hereof as if fully alleged herein.

381. Denies the allegations contained in paragraph "381".

382. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "382".

383. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "383" and refers all questions of law to the trial court for resolution.

384. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "384" and refers all questions of law to the trial court for resolution.

**SIXTY-FOURTH CAUSE OF ACTION**

385. In response to paragraph "385" repeats and realleges paragraphs "1" through "384" hereof as if fully alleged herein.

386. Denies the allegations contained in paragraph "386".

387. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "387".

388. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "388" and refers all questions of law to the trial court for resolution.

389. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "389" and refers all questions of law to the trial court for resolution.

**SIXTY-FIFTH CAUSE OF ACTION**

390. In response to paragraph "390" repeats and realleges paragraphs "1" through "389" hereof as if fully alleged herein.

391. Denies the allegations contained in paragraph "391".

392. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "392".

393. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "393" and refers all questions of law to the trial court for resolution.

394. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "394" and refers all questions of law to the trial court for resolution.

#### **SIXTY-SIXTH CAUSE OF ACTION**

395. In response to paragraph "395" repeats and realleges paragraphs "1" through "394" hereof as if fully alleged herein.

396. Denies the allegations contained in paragraph "396".

397. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "397".

398. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "398" and refers all questions of law to the trial court for resolution.

399. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "399" and refers all questions of law to the trial court for resolution.

#### **SIXTY-SEVENTH CAUSE OF ACTION**

400. In response to paragraph "400" repeats and realleges paragraphs "1" through "399" hereof as if fully alleged herein.

401. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "401".

402. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "402" and refers all questions of law to the trial court for resolution.

403. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "403" and refers all questions of law to the trial court for resolution.

404. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "404" and refers all questions of law to the trial court for resolution.

405. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "405" and refers all questions of law to the trial court for resolution.

#### **SIXTY-EIGHTH CAUSE OF ACTION**

406. In response to paragraph "406" repeats and realleges paragraphs "1" through "405" hereof as if fully alleged herein.

407. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "407".

408. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "408".

409. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "409" and refers all questions of law to the trial court for resolution.

410. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "410" and refers all questions of law to the trial court for resolution.

411. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "411" and refers all questions of law to the trial court for resolution.

### **SIXTY-NINTH CAUSE OF ACTION**

412. In response to paragraph "406" repeats and realleges paragraphs "1" through "411" hereof as if fully alleged herein.

413. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "413" and refers all questions of law to the trial court for resolution.

414. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "414" and refers all questions of law to the trial court for resolution.

### **SEVENTIETH CAUSE OF ACTION**

415. In response to paragraph "415" repeats and realleges paragraphs "1" through "414" hereof as if fully alleged herein.

416. Denies the allegations contained in paragraph "416".

417. Denies the allegations contained in paragraph "417".

### **SEVENTY-FIRST CAUSE OF ACTION**

418. In response to paragraph "418" repeats and realleges paragraphs "1" through "417" hereof as if fully alleged herein.

419. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "419" and refers all questions of law to the trial court for resolution.

420. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "420".

421. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "421" and refers all questions of law to the trial court for resolution.

422. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "422" and refers all questions of law to the trial court for resolution.

423. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "423" and refers all questions of law to the trial court for resolution.

424. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "424" and refers all questions of law to the trial court for resolution.

### **FIRST AFFIRMATIVE DEFENSE**

425. Upon information and belief, the Plaintiffs causes of actions against Gerson are untimely in whole or in part.

### **SECOND AFFIRMATIVE DEFENSE**

426. Plaintiff lacks standing to assert the claims made herein.

### **THIRD AFFIRMATIVE DEFENSE**

427. Gerson was not in privity with the Hilman Partnership, which was not his client, and Gerson did not owe any fiduciary or other duty to the Hilman Partnership concerning the funds at issue in this proceeding.

#### **FOURTH AFFIRMATIVE DEFENSE**

428. Upon information and belief, the Debtor had no legal interest in the proceeds at issue in this suit, since the proceeds were obtained by the Debtor under false pretenses and with criminal intent, and hence the Plaintiff lacks standing to pursue the claims herein.

#### **FIFTH AFFIRMATIVE DEFENSE**

429. Plaintiffs claims are barred based on the doctrine of waiver, estoppel, unclean hands, and/or *in pari delicto*.

#### **AN SIXTH AFFIRMATIVE DEFENSE**

430. Any and all actions and omissions attributed to Gerson in the complaint were caused by the criminally fraudulent representations of the Debtor for which Gerson cannot be held liable.

#### **SEVENTH AFFIRMATIVE DEFENSE**

432. Upon information and belief, the alleged transfers were made to pay parties fair consideration for antecedent debts and were not fraudulent conveyances.

#### **EIGHT AFFIRMATIVE DEFENSE**

433. No act or omission attributed to the Gerson in the complaint was the cause of any of the transfers upon which Plaintiff asserts his claims.

#### **NINTH AFFIRMATIVE DEFENSE**

435. Plaintiff has failed to join the Hilman Partnership as a necessary party.

**TENTH AFFIRMATIVE DEFENSE**

436. There is no good faith basis under FRCP Rule 11 for the Plaintiff to allege that Gerson had any fraudulent intent.

**ELEVENTH AFFIRMATIVE DEFENSE**

437. The Gerson incorporates herein any defenses of other defendants that are applicable.

**FIRST CROSS-CLAIM AGAINST  
ALL DEFENDANTS**

438. To the extent, if any, that Gerson is found to be liable to Plaintiff for any of the loss or damage alleged in the complaint, then Gerson is entitled to contribution from the other defendants in the proportion that the culpable conduct attributed to the other defendants bears to the entire measure of responsibility for the occurrence.

**SECOND CROSS-CLAIM AGAINST THE TRANSFEREE DEFENDANTS**

439. Upon information and belief, the proceeds received from the Debtor and deposited into the Gerson IOLA Account were transferred therefrom in good faith upon the directions of the Debtor to the other defendants named in this proceeding as alleged in the complaint (the "Transferee Defendants").

440. To the extent, if any, that Gerson is found to be liable to Plaintiff for any of the loss or damage alleged in the complaint, the respective Transferee Defendants, who ultimately received the funds are liable to reimburse Gerson.

**RESERVATION OF DEFENSES**

441. Gerson reserve the right to amend and/or supplement this Answer, including, without limitation, to assert additional defenses.

**WHEREFORE**, defendant, Gerson, demands judgment

- (1) dismissing the complaint as against it; and, alternatively,
- (2) granting judgment against the other Defendants for contribution;
- (3) together with costs and disbursements of this action, and such other and further relief as the Court determines to be just and proper.

Dated: Cedarhurst, New York  
October 24, 2015

**NOVAK JUHASE & STERN, LLP**

—  
/s/ Alexander Novak

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